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IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

KIM SMITH, : NO.: 1:CV01-0817
Plaintiff :
 : (Caldwell, J.)
vs. :
 : (Mannion, M.J.) ✓
WEXFORD HEALTH SOURCES, :
INC., et al., : JURY TRIAL DEMANDED
Defendants :

FILED
HARRISBURG, PA

DEC 13 2002

MARY E. DANDREA, CLERK
Per RB Deputy Clerk

DEFENDANTS, WEXFORD HEALTH SOURCES, INC.; RONALD
LONG, M.D.; S. CRAIG HOFFMAN, P.A.; WENDY WRIGHT; AND
MELINDA BAKER, P.A.'S MOTION FOR SUMMARY JUDGMENT

AND NOW, come Defendants, Wexford Health Sources, Inc.; Ronald Long, M.D.; S. Craig Hoffman, P.A.; Wendy Wright; and Melinda Baker, P.A. (hereinafter "Wexford Defendants" and/or "Moving Defendants"), by and through their attorneys, Lavery, Faherty, Young & Patterson, P.C., and file this Motion for Summary Judgment and in support thereof, aver as follows:

1. On May 10, 2001, the pro se Plaintiff, an inmate at the State Correctional Institution-Coal Township, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff was previously incarcerated at SCI-Smithfield.

2. Plaintiff has named various officials and/or employees of the Pennsylvania Department of Corrections as Defendants. The Complaint also names Wexford Health Sources, Inc., the contracted medical provider at SCI-Smithfield, as well as various Wexford employees as Defendants.

3. In his Complaint, Plaintiff is attempting to assert a number of claims, including denial of medical care for various ailments and/or conditions while incarcerated at SCI-Smithfield; denial of access to his legal mail; denial of access to educational programs; use of excessive force by staff members; denial of due process at a misconduct hearing; harassment by prison officials; unlawful searches of his cell; the filing of false reports by prison officials; the destruction of his personal property; denial of access to the law library; and denial of diabetic meals.

4. By Order dated June 6, 2001, this Honorable Court opined that Plaintiff's filing was disorganized and difficult to decipher. In that Order,

Plaintiff was directed to file an Amended Complaint addressing the deficiencies identified with respect to his initial pleadings.

5. After obtaining an enlargement of time, on July 11, 2001, the Plaintiff submitted an Amended Complaint and a packet of exhibits relating to the inmate grievances which he had filed.

6. By Order dated August 3, 2001, Magistrate Judge Mannion directed the Clerk of Court's office to serve copies of the Amended Complaint and other pleadings upon the Defendants.

7. The Wexford Defendants were served via a Waiver of Service of Summons and Complaint dated September 7, 2001.

8. On November 6, 2001, the Wexford Defendants filed a Waiver of Reply to Plaintiff's Amended Complaint in accordance with the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, as amended by § 803(d) of the Prison Litigation Reform Act of 1995. In their responsive pleading, the Wexford Defendants denied any and all liability to the Plaintiff and asserted all available affirmative defenses to the Amended Complaint.

9. Pursuant to Rule 56(c), Federal Rules of Civil Procedure, summary judgment is appropriate when there exist no genuine issue of

material fact and the moving party is entitled to summary judgment as a matter of law.

10. There are no genuine issues of material fact and the Wexford Defendants are entitled to summary judgment as a matter of law due to Plaintiff's failure to exhaust available administrative remedies.

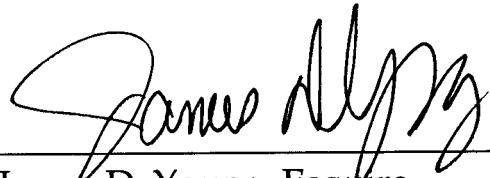
11. There are no genuine issues of material fact and the Wexford Defendants are entitled to summary judgment as a matter of law on Plaintiff's Eighth Amendment claim arising out of the medical care which he received at SCI-Smithfield.

WHEREFORE, the Wexford Defendants respectfully request that this Honorable Court grant their Motion for Summary Judgment and enter judgment in their favor and against the Plaintiff.

Respectfully submitted,

Lavery, Faherty, Young &
Patterson, P.C.

By: _____

A handwritten signature in black ink, appearing to read "James D. Young", written over a horizontal line.

James D. Young, Esquire
Atty No. 53904
225 Market Street, Suite 304
P.O. Box 1245
Harrisburg, PA 17108-1245
Attorney for Defendants,
Wexford Health Sources, Inc.;
Ronald Long, M.D.;
S. Craig Hoffman, P.A.; and
Melinda Baker, P.A.

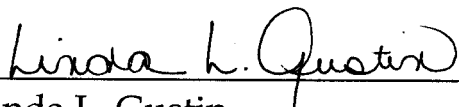
DATE: 12/13/02

CERTIFICATE OF SERVICE

I, Linda L. Gustin, an employee with the law firm of Lavery, Faherty, Young & Patterson, P.C., do hereby certify that on this 13th day of December, 2002, I served a true and correct copy of the foregoing **Defendants, Wexford Health Sources, Inc.; Ronald Long, M.D.; S. Craig Hoffman, P.A.; Wendy Wright; and Melinda Baker, P.A.'s Motion for Summary Judgment** via U.S. First Class mail, postage prepaid, addressed as follows:

Kim Smith
CT-2162
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866-1020

John Talaber, Esquire
Assistant Counsel
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011



Linda L. Gustin